

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Craig McRobbie on March 26, 2010.

The application has been amended as follows:

In claim 23, line 1, "of" was replaced with "comprising a"

In claim 23, line 2, ",", was inserted after " $\text{Li}_a\text{M}_b\text{O}_2$ ".

In claim 23, lines 3, 5 & 6, "-" was deleted.

In claim 23, line 3, "is dominantly transition metal chosen from " was replaced with "is a mixture of at least two transition metals selected from the group consisting of".

In claim 23, line 4, "Nickel" was replaced with " Ni_i ".

In claim 23, line 5, ",", was inserted after "sizes"

In claim 23, line 5, "said material" was inserted before "having".

In claim 23, line 6, "composition" was replaced with "content of Mn, Co and Ni in".

In claim 27, line 1, "of" was replaced with "comprising a".

In claim 27, line 2, ",", was inserted after " $\text{Li}_a\text{M}_b\text{O}_2$ ".

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In claim 27, lines 3, 5, 6, & 7, "-" was deleted.

In claim 27, line 3, "is transition metal chosen from " was replaced with "is a mixture of at least two transition metals selected from the group consisting of".

In claim 27, line 4, "Nickel" was replaced with "Ni".

In claim 27, line 5, "the particles have" was replaced with "said material having particles with"

In claim 27, line 5, ", and" was added after "structure".

In claim 27, line 6, ", " was added after "2".

In claim 27, line 7, "composition" was replaced with "content of Mn, Co and Ni in".

EXAMINER'S STATEMENT OF REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance: the instant claims are allowable over the prior art of record, because the prior art is silent to a powderous electrode active material comprising: a lithium transition metal oxide, $\text{Li}_a\text{M}_b\text{O}_2$, containing a mixture of at least two transition metals of Mn, Co, Ni; having a particle size distribution; wherein the composition of M varies with the size of the particles.

The prior art, such as Nakamura U.S. Pat. 6, 103,213 teaches a lithium cobalt oxide having a narrow particle size distribution. See column 2, lines 15-20. However, Nakamura is silent to a $\text{Li}_a\text{M}_b\text{O}_2$ containing a transition metal mixture of

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at least two of Mn, Co and Ni, where the composition of the said transition metal mixture varies with particle size.

Conclusion

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Monique Wills whose telephone number is (571) 272-1309. The Examiner can normally be reached on Monday-Friday from 8:30am to 5:00 pm.

If attempts to reach Examiner by telephone are unsuccessful, the Examiner's supervisor, Jennifer Michener, may be reached at 571-272-1424. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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